

Notice of Allowability

Application No.

10/767,686

Examiner

Sharmila S. Gollamudi

Applicant(s)

PIAO ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/30/06.
2. ☒ The allowed claim(s) is/are 1-19 and 22-23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |

Sharmila S. Gollamudi
JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1800

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Weili Cheng on 7/19/06.

The application has been amended as follows:

Cancel claims 20-21.

Claim 23 has been amended to:

The method according to claim 22, wherein the individual triblock polymer component ~~can be~~ is selected based on at least one member of the group consisting of average molecular weights of A-polymer block, average molecular weights of B-polymer block, weight ratios of A-polymer block over B-polymer block, and types of triblock copolymer.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The instant claims are free from prior art. The closest prior art US 5,702,717 does not disclose or suggest 1) a mixture of triblock copolymers or 2) the instant concentration of the hydrophobic polymer and hydrophilic polymer. US '717 teaches the hydrophilic polymer is contained in an amount of 50-85% and the hydrophilic polymer must be in an amount of at least 50% and preferably higher to remain water-soluble. Further, US '717 teaches the hydrophobic polymer is in an amount of 15-50%. Thus, the instantly claimed range wherein the hydrophobic block polymer is 51- 83% and

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the hydrophilic block polymer is 17-49% would *not* be obvious over US '717 since US '717 teaches that in order for the system to be water-soluble and degradable, the hydrophilic polymer should be in a minimum of 50%, preferably more, and the hydrophobic should be at a maximum of 50%.

US 6,004,573 is made of record which teaches the instant triblock polymer and concentration; however US '573 does not disclose a mixture of different triblock copolymers. Additionally, US '573 is unavailable as prior art under 103 (c) since applicant has made the appropriate statement in parent application 09/559799.

Thus, the only remaining rejections in the Final Office Action were obviousness double patenting rejections. However, the Terminal Disclaimers filed 6/30/06 obviate the obviousness double patenting rejections. MPEP 822.01 is cited for the *provisional* obviousness double patenting rejections over 10/186462; 10/167768; and 10/734740.

Lastly, it is noted that a restriction was made in parent application 7,0186,645 on 1/7/02 between I) the biodegradable polymeric system; II) the drug delivery system; III) the method of administering; IV) the process of preparation; and V) the method of adjusting gelation wherein invention I was elected. Claims 20-21 directed to the biodegradable polymer have been cancelled to overcome any double patenting issues.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


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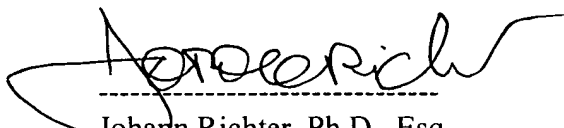
Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-272-0614. The examiner can normally be reached on M-F (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sharmila S. Gollamudi
Examiner
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Johann Richter, Ph.D., Esq.
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